



Violations of Community Supervision and the Use of Offender Risk Assessment in Virginia

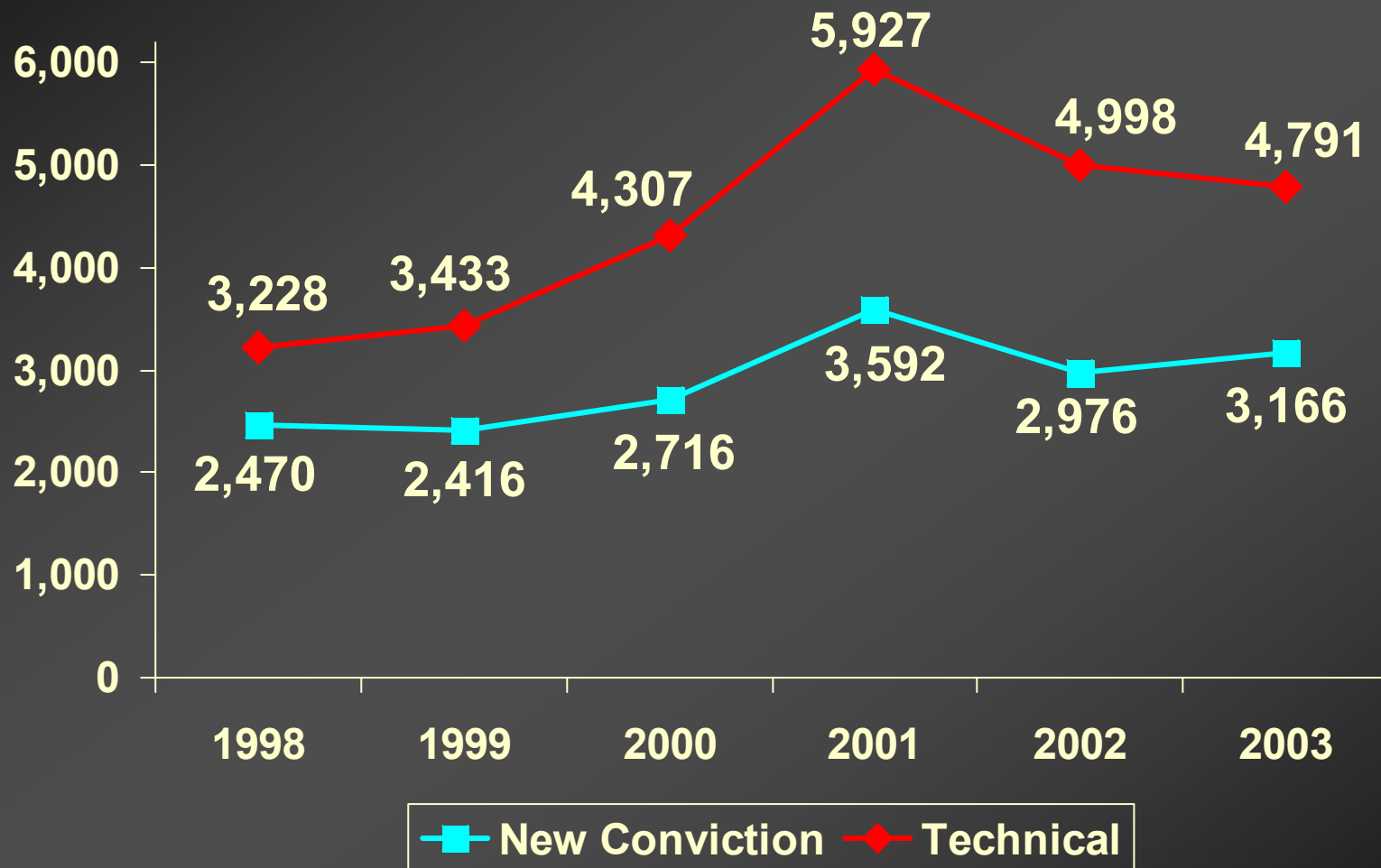
**Presented to the Prisoner Reentry Stakeholders Meeting
August 26, 2004**

Preliminary 2003 Data

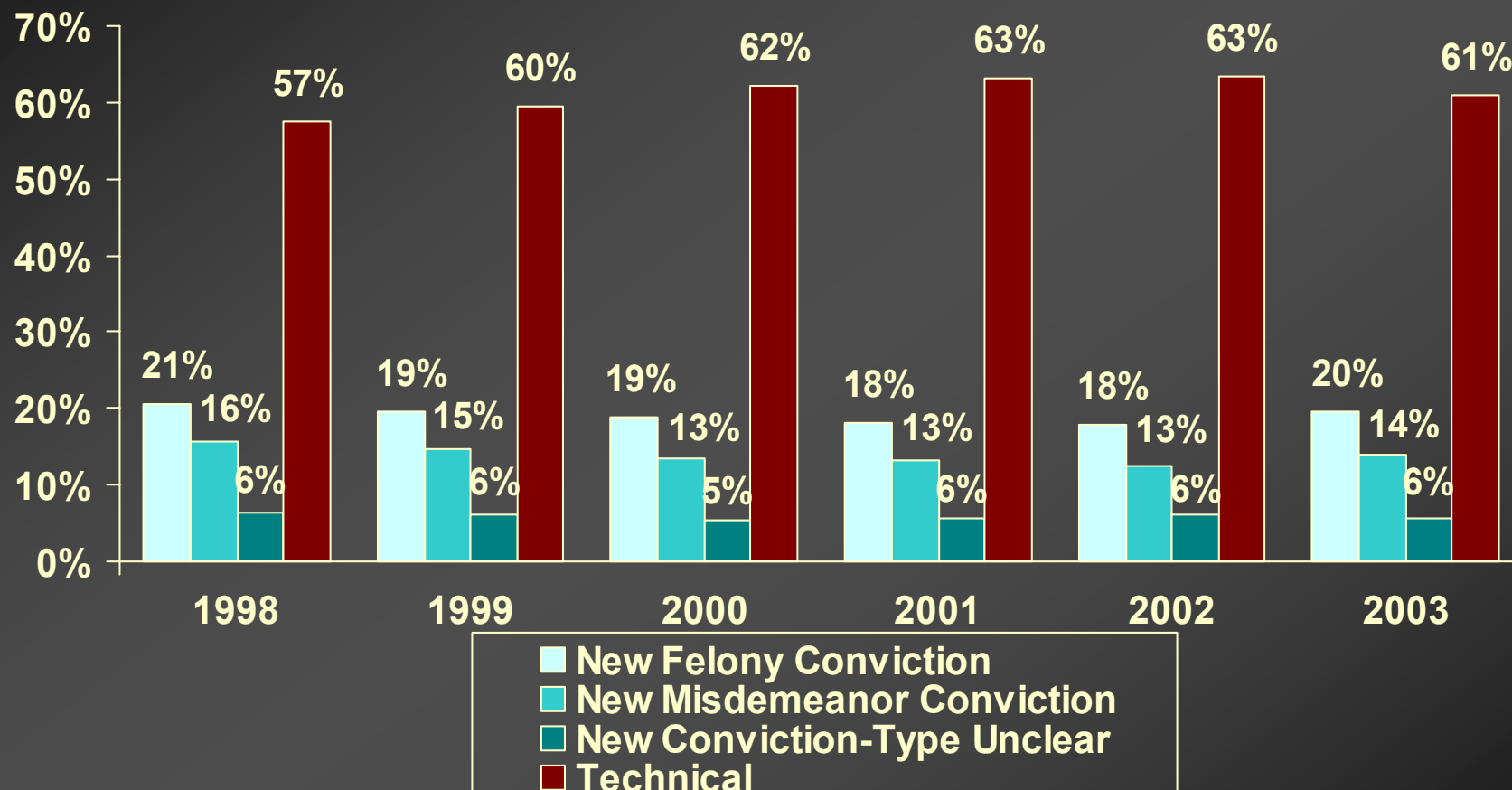


Community Supervision Violations

Preliminary 2003 Data



Reasons for Supervision Violations, 1998 – 2003

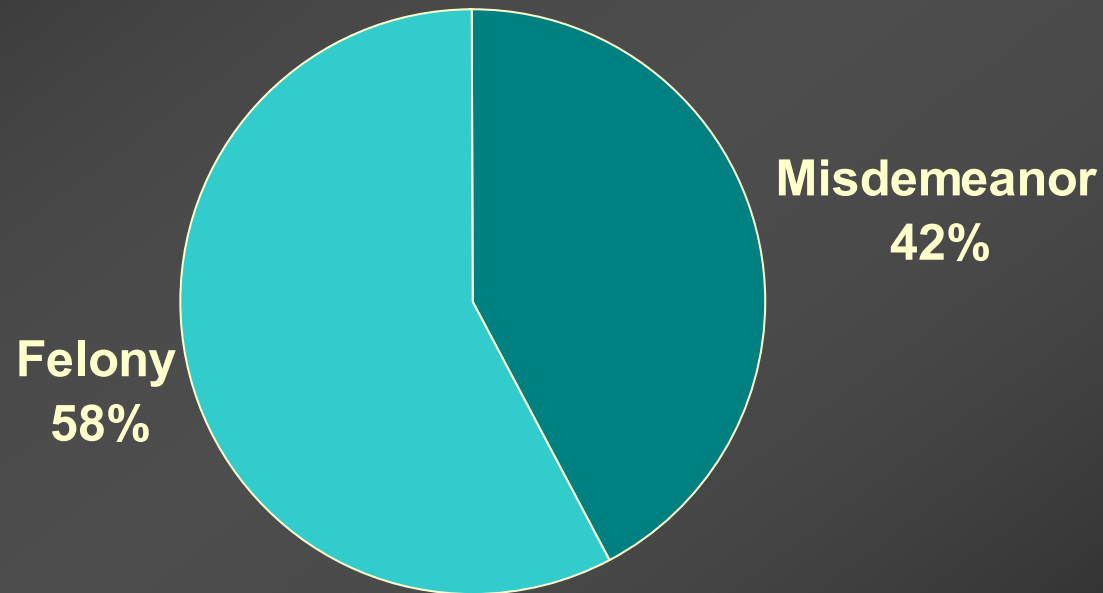


Reasons for Supervision Violations, 2002-2003



Violators with New Convictions, 2003

Type of New Conviction



Technical Violators Sentenced to Prison, 1998 – 2003



Nonviolent Offender Risk Assessment



Nature of Risk Assessment

- ❖ Risk assessment is practiced informally throughout the criminal justice system (e.g., prosecutors when charging, judges at sentencing, parole board members in making release decisions)
- ❖ Empirically-based risk assessment is a formal process using knowledge gained through observation of actual behavior within groups of individuals
- ❖ Groups are defined by having a number of factors in common that are statistically relevant to predicting the likelihood of repeat offending
- ❖ These groups exhibiting a high degree of re-offending are labeled high risk

Nature of Risk Assessment

- ❖ The Sentencing Commission's methodological approach to studying criminal behavior is identical to that used in other scientific fields such as medicine
- ❖ In medical studies, individuals are studied in an attempt to identify the correlates of the development of diseases
- ❖ Medical risks profiles do not perfectly fit every individual
 - For example, some heavy smokers may never develop lung cancer
- ❖ Goal: To produce an instrument that is broadly accurate and improves upon the outcomes of the decisions made without reference to the tool

Legislative Directive (1994)

❖ The Sentencing Commission shall:

- Determine appropriate candidates for alternative sanctions
- Develop an offender risk assessment instrument predictive of a felon's relative risk to public safety
- Apply the instrument to nonviolent felons recommended for prison
- Goal: Place 25% of these prison bound felons in alternative sanctions

- § 17.1-803 (5,6) of the *Code of Virginia*

Development of Risk Assessment Tool

- ❖ Studied thousands of property and drug felons released from incarceration in 1991-1992
- ❖ Over 200 unique factors relating to criminal record, substance abuse, education and employment history, family background, etc., on each case
- ❖ Recidivism defined as a reconviction for a felony within three years of release
- ❖ Pilot tested in six jurisdictions between 1997 and 2001

Independent Evaluation of Risk Assessment

- ❖ The National Center for State Courts (NCSC) conducted an independent evaluation
 - Interviews with judges, prosecutors, defense attorneys, and probation officers
 - Empirical analysis
- ❖ NCSC concluded the risk assessment instrument is an effective tool for predicting recidivism
- ❖ Benefit-cost analysis indicated that the pilot program resulted in a net benefit in pilot sites of \$1.5 million
 - If used statewide during 2000, the estimated net benefit would have been \$3.7-\$4.5 million
- ❖ The NCSC recommended that the instrument be refined and retested with more recent felony cases.

Refined Risk Assessment Instrument

- ❖ In 2001, the Sentencing Commission completed additional study to refine the risk assessment tool
- ❖ New recidivism study sample of 1996 nonviolent felons
- ❖ Offenders recommended for diversion under the refined risk assessment model had a recidivism rate of 12%
- ❖ Offenders not recommended for diversion under the refined model had a recidivism rate of 38%
- ❖ A score threshold selected so that 25% of prison bound offenders will be recommended for alternative sanctions
- ❖ Effective statewide July 1, 2002

Significant Factors in Predicting Recidivism



Offense Type Select the type of primary offense

Drug 3
 Fraud 3
 Larceny 11

Additional Offense(s) IF YES, add 5

Offender —Score factors A to D and enter the total score

A. Offender is a male 8
 B. Offender's age at time of offense
 Younger than 30 years 13
 30 – 40 years 8
 41 – 46 years..... 1
 Older than 46 years 0
 C. Offender not regularly employed..... 9
 D. Offender is at least 26 years of age & never married 6

Arrest or Confinement Within Past 18 Months — IF YES, add 6

Prior Felony Convictions and Adjudications

Any Adult Felony Convictions or Adjudications..... 3
 Any Juvenile Felony Convictions or Adjudications..... 6
 Adult and Juvenile Felony Convictions or Adjudications..... 9

Prior Adult Incarcerations

Number 1 – 2 3
 3 – 4 6
 5 or more..... 9

TOTAL SCORE

35 or less, check Recommended for Alternative Punishment.

36 or more, check NOT Recommended for Alternative Punishment.

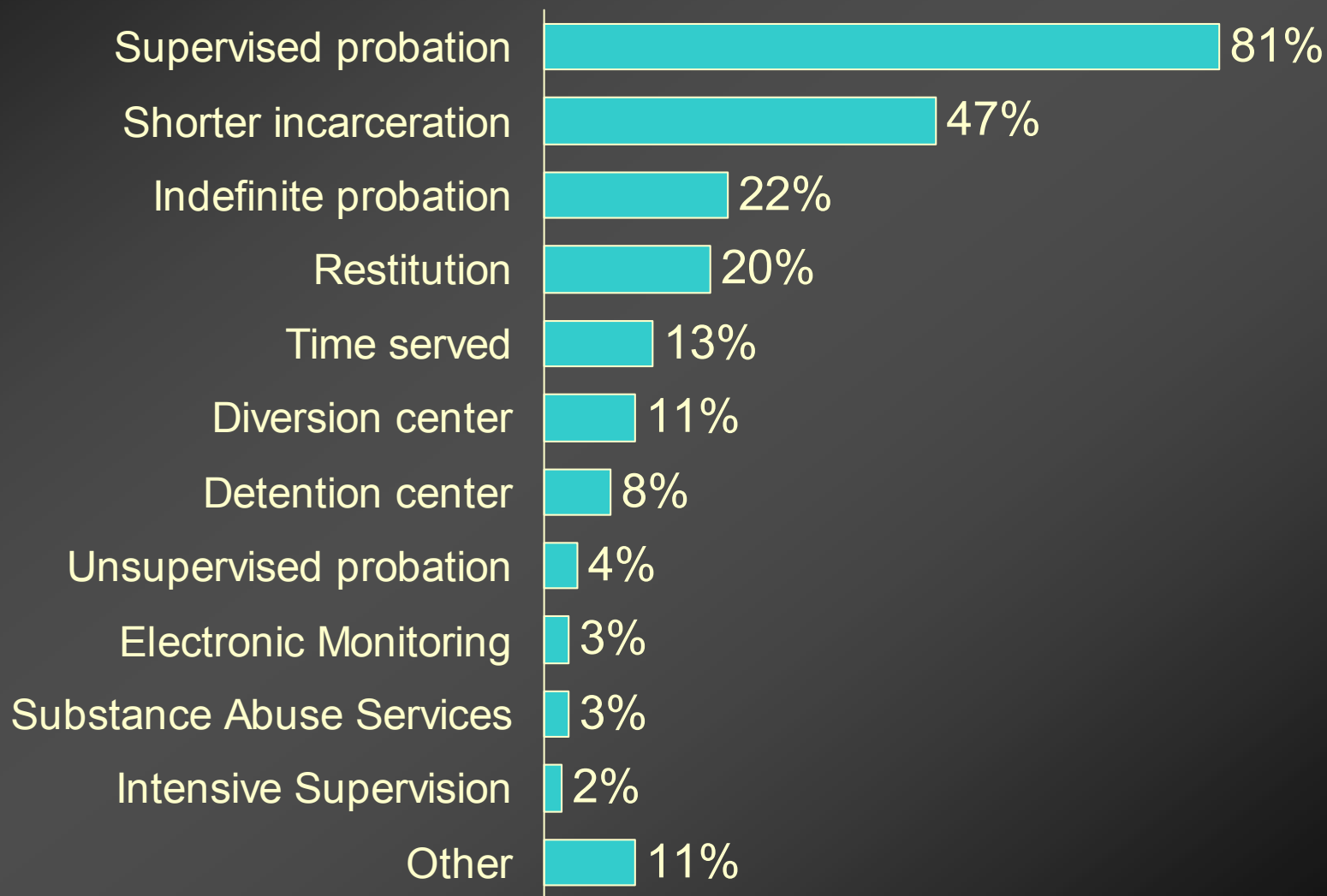
Use of Risk Assessment

- ❖ Completed in larceny, fraud and drug cases for offenders who are recommended for incarceration by the sentencing guidelines
 - Those with a current or prior violent felony conviction and those who sell 1 oz. or more of cocaine are excluded
- ❖ For offenders who score 35 or less, the sentencing guidelines cover sheet indicates a dual recommendation
 - Traditional incarceration and alternative punishment

Use of Risk Assessment

- ❖ As with the sentencing guidelines, compliance with the risk assessment recommendation is discretionary
- ❖ If a judge follows either sentencing recommendation, he or she is considered in compliance with the guidelines

Alternative Sanctions Utilized under Nonviolent Offender Risk Assessment



Legislative Directive - Budget Language (2003)

- ❖ Chapter 1042 (Item 40) of the 2003 Acts of Assembly directs the Commission to:
 - Identify offenders not currently recommended for alternative punishment options by the assessment instrument who nonetheless pose little risk to public safety
 - Determine, with due regard for public safety, the feasibility of adjusting the assessment instrument to recommend additional low-risk nonviolent offenders for alternative punishment
 - Provide findings to the 2004 Session of the General Assembly

Nonviolent Offender Risk Instrument – Examining the Score Threshold

- ❖ The Sentencing Commission concluded that the threshold could be raised from 35 to 38 points without significant risk to public safety
 - Recidivism rates do not vary greatly between 36 and 38 points
- ❖ Following careful consideration, the Commission approved increasing the threshold to 38 points
- ❖ Raising the threshold will result in additional offenders being recommended for alternative sanctions
- ❖ Following approval by the legislature, the change became effective July 1, 2004

*Probation Violator Sentencing
Guidelines and Risk Assessment*



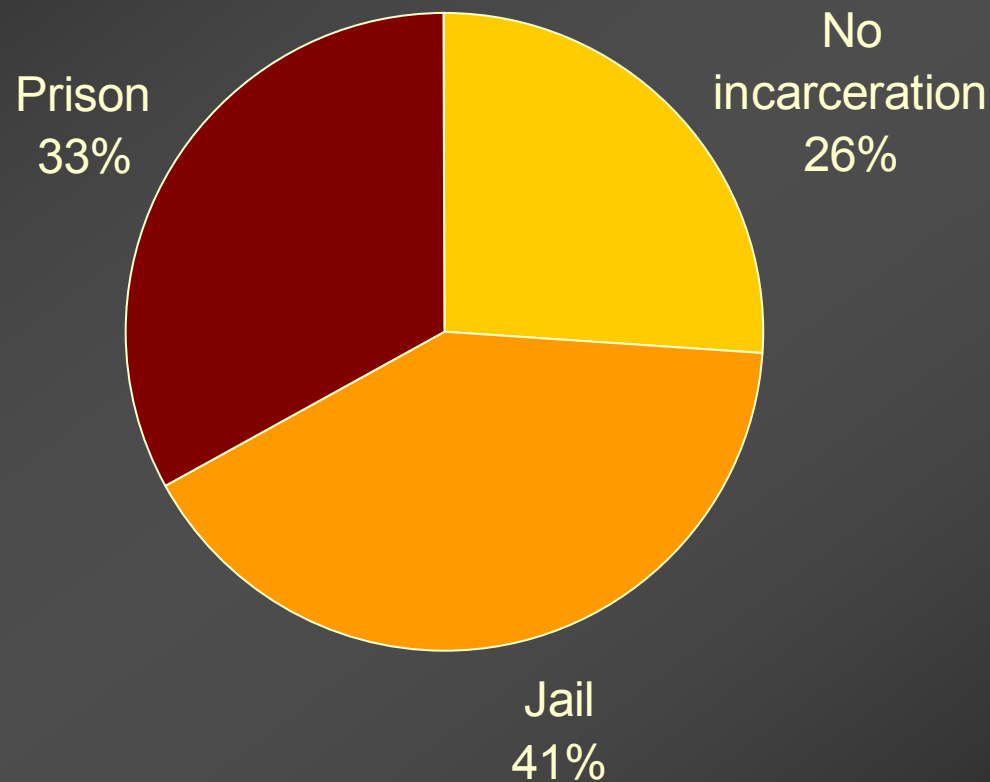
Legislative Directive - Budget Language (2003)

- ❖ Chapter 1042 (Item 40) of the 2003 Acts of Assembly directs the Commission to:
 - Develop, with due regard for public safety, discretionary sentencing guidelines for application to felony offenders determined by the court to be in technical violation of probation/post-release supervision
 - Determine recidivism rates and patterns for technical violators
 - Evaluate the feasibility of integrating risk assessment into the sentencing guidelines for technical violators
 - Provide findings to the 2004 Session of the General Assembly

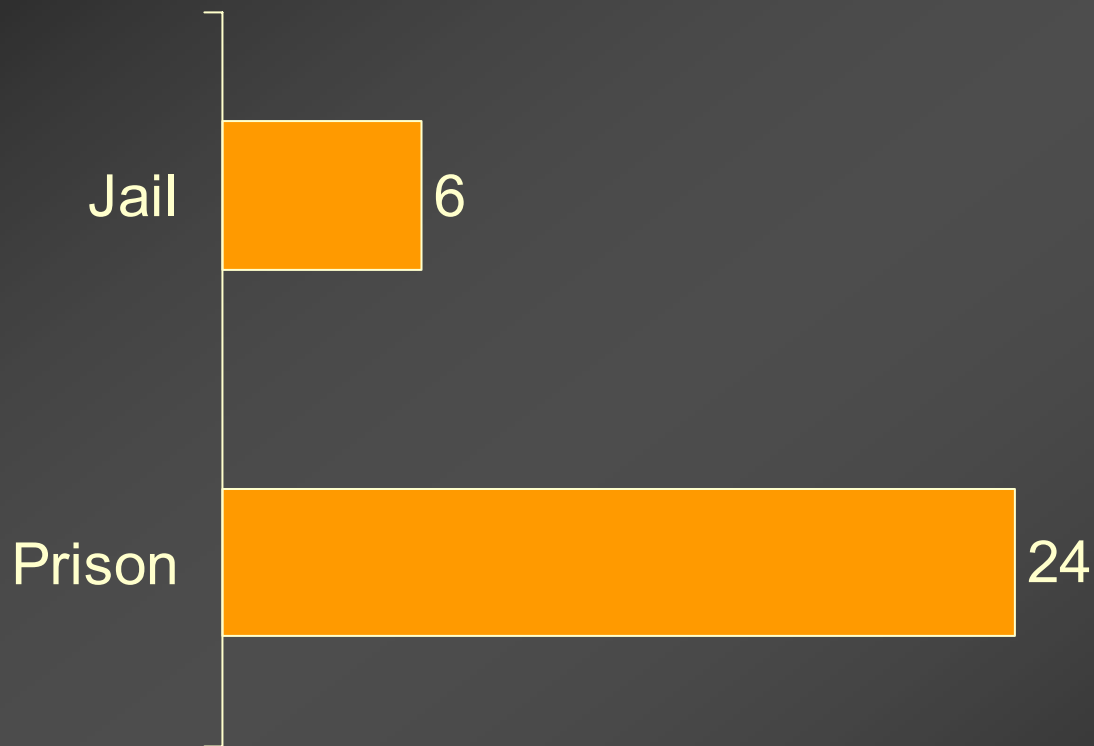
Probation Violator Sentencing Guidelines

- ❖ The Commission studied a sample of violators who were returned to court for reasons other than a new conviction
 - Original crime was a felony
 - Sentenced under truth-in-sentencing (no parole) provisions
- ❖ Department of Corrections (DOC) Probation & Parole files were reviewed
 - Violation letter from probation officer to judge
- ❖ Over 200 unique factors relating to criminal record, substance abuse, education and employment history, family background, etc., on each case

Dispositions for Technical Probation Violators, FY1997-FY2001



Active Incarceration Time for Technical Probation Violators, FY1997-FY2001 (in months)



Data reflects the median incarceration time (i.e., half of the cases are below and half the cases are above the value reported).

Probation Violator Sentencing Guidelines

- ❖ Guidelines for technical violators reflect historical sanctioning practices during FY1997 – FY2001
- ❖ The Commission approved the violator guidelines and the 2004 General Assembly accepted the Commission's recommendation
- ❖ The guidelines became effective statewide July 1, 2004

Probation Violator Risk Assessment

- ❖ The goal is to identify lower-risk technical violators for alternative punishment in lieu of traditional incarceration in prison (or jail)
- ❖ Risk assessment will be a companion piece to the probation violator sentencing guidelines
- ❖ The study is designed is to identify the combination of factors most associated with recidivism among this offender population

Probation Violator Risk Assessment

- ❖ Recidivism measure selected by the Commission:
any new arrest
 - Other measures will be collected and evaluated as supplementary information
 - Follow-up time: 18 months
- ❖ The risk assessment phase of the study is ongoing
- ❖ Commission will report its findings to the 2005 General Assembly



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